### Hatchett & Hauck LLP

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232358

October 23, 2012

<u>Via Certified Mail – Return Receipt Requested</u> (7007 0220 0003 9078 4300)

Michael Mintzer
Assistant Regional Counsel
New York/Caribbean Superfund Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region II
290 Broadway, 17<sup>th</sup> Floor
New York, NY 10007-1866

Re

Newtown Creek Superfund Site, Kings County and Queens County, New York Request for Information Pursuant to the Comprehensive Environmental Response,

Compensation and Liability Act, 42 U.S.C. §§ 9601-9675

Supplemental Response of Harsco Corporation

Dear Mr. Mintzer:

On December 21, 2011, a letter was sent, addressed to Harsco Corporation ("Harsco"). A revised letter was sent on January 9, 2012, although the revised letter retained the original December 21, 2011 date. In the letters, the United States Environmental Protection Agency ("U.S. EPA") requested information relating to the Newtown Creek Superfund Site, Kings County and Queens County, New York, New York ("the Site") under the authority of Section 104(e)(2) of CERCLA, 42 U.S.C. 9604(e)(2) ("the Statutory Section"). On April 9, 2012, Harsco provided its response to the information request. The purpose of this letter and the enclosed materials is to supplement that response.

The Respondent continues to desire to cooperate with U.S. EPA in its investigation of this matter, however, Respondent also wishes to point out that it is not liable or otherwise responsible for the alleged releases of hazardous substances at the Site. Therefore, the Respondent intends to preserve all privileges, rights and protections to which it is entitled. To that end, Respondent incorporates herein the objections set out in Attachment A to the Initial Response in order to preserve the right to object in any proceeding to the admission of any evidence or information protected by such privileges, rights and protections. As requested, the Respondent is, without waiving any of its privileges, rights or protections, nevertheless providing the requested information to the best of its ability. By providing this response, the Respondent does not admit any fact alleged in the requests or that the Statutory Section authorizes each and every request and instruction contained in the request.

The Respondent's search for responsive information is ongoing and the Respondent will further supplement this response in the event that additional responsive information is discovered.

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This Supplemental Response consists of this letter, the attached Supplemental Responses and the documents on the enclosed CD.

We reiterate that the Respondent is not a responsible party for this facility. We look forward to working with U.S. EPA to resolve any questions it may have as to the Respondent. A determination that the Respondent is not a responsible party will enable U.S. EPA to direct its attention and resources toward the parties who are actually responsible, thus facilitating a response to any environmental issues at the Site.

Please direct any further correspondence concerning this matter to the undersigned.

Sincerely,

James M. Hauck Kenneth W. Maher

Counsel for Harsco Corporation

KWM:mke Enclosures

Cc: Caroline Kwan,

Remedial Project Manager, New York Remedial Branch Emergency and Remedial Response Division U.S. Environmental Protection Agency, Region II 290 Broadway, 20<sup>th</sup> Floor New York, NY 10007-1866

# HARSCO CORPORATION'S SUPPLEMENTAL RESPONSE TO REQUEST FOR INFORMATION NEWTOWN CREEK SUPERFUND SITE

Additional information potentially responsive to the Request has been identified as a result of Harsco's continuing investigation and is noted in this Supplemental Response.

This Supplemental Response is provided with the following formatting: Any update or additional information is set out under each original response, in italics and underlined and with the phrase "Updated Information." To the extent there is a conflict between the original response and the Updated Information, the Updated Information controls.

#### GENERAL RESPONSES AND INFORMATION

- 1. As will be explained in the specific responses below, Harsco Corporation ("Harsco") acquired the property which constitutes the Facility (as defined in the Request) in 1965 and also acquired substantially all of the assets of the former Irving Subway Grating Co., Inc. which had operated at the Facility. The passage of time has made it very difficult for Harsco to acquire information concerning the prior operations, the acquisitions, and Harsco's use of the Facility.
- 2. From 1965 until 1997, Harsco understands that the Facility was used for the fabricating of steel grating. Harsco has been unable to determine the identity of any of the persons who were employed in the fabricating operations at the Facility during that time. Harsco has also been unable to locate any documents relating to the operations at the Facility during that period. Therefore, Harsco has no actual knowledge of specific facts relating to the operations during that period.
- 3. From approximately 1997 until 2008, Harsco used the Facility for storage of scaffolding. Harsco has been unable to determine the identity of any of the persons who were employed at the Facility during that time. Harsco has also been unable to locate any documents relating to the operations at the Facility during that period. Therefore, Harsco has no actual knowledge of specific facts relating to the operations during that period.
- 4. As is documented in the specific responses below, Harsco sold the Facility on or about August 25, 2008. Harsco has no actual knowledge of the use of the Facility or the operations conducted at the Facility since that date.
- 5. "See attached" or other references to documents being produced in response to a request refers to documents which have been provided in electronic form on the CD which is enclosed with these Responses. The documents are contained in folders with the number of the particular request for which the document was produced.
- 6. Harsco's responses are set out in italics so that they may be more easily distinguished from the Requests.

#### **SPECIFIC RESPONSES**

#### **Section 1.0** Company Information

1. <u>Company Identification</u>: Provide the following information with respect to the Company.

a. The full legal, corporate name and mailing address.

Harsco Corporation Corporate Headquarters 350 Poplar Church Road Camp Hill, PA 17011

b. The state and date of incorporation, the date of qualification to do business in the State of New York, and the agents for service of process in the state of incorporation and in New York State.

Harsco Corporation was incorporated in Delaware on February 28, 1956. Harsco's Certificate of Authority in New York State (see attached) is dated March 29, 1956. The agent for service of process in New York is:

C T Corporation System
111 Eighth Avenue
New York, NY 10011 (New York Co.)

The agent for service of process in Delaware is: The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801 (New Castle Co.)

c. The Chief Executive Officer or other presiding officer of the entity and the mailing address of that officer.

Henry W. Knueppel, Interim Chairman & CEO 350 Poplar Church Road Camp Hill, PA 17011

d. If the Company is a successor by merger, acquisition or other activity to any other entity, identify each such entity and describe the nature of the succession. Please provide purchase and sale documents that related to such merger, acquisition or other activity including any indemnities associated with such activity.

Harsco has been involved in many mergers during its corporate life, but we understand this Request to concern only mergers which have some relation to the Facility. Harsco states that Irvico Realty Corporation, a New York Corporation, was merged with Harsco on or about August 18, 1965. Harsco was the surviving corporation. The Certificate of Merger and other documents related to the merger are attached. Harsco's investigation and efforts to locate additional documents related to that merger are ongoing and Harsco will supplement this response if those documents are located.

e. If the Company is a subsidiary, division, branch or affiliate of another corporation or other entity, identify each of those other entities and those entities' Chief Executive Officers or other presiding officers. Identify the state of incorporation and agents for service of process in the state of incorporation and in New York State for each entity identified in your response to this question.

Not Applicable

- f. Describe in detail the Company's previous or current relationship and affiliation to the entities listed below (and identify all other corporate names, with dates of use, for each such entity). Provide copies of documentation of acquisition, disposition, merger, joint venture, license or lease and including, if applicable, public filings with SEC relating to such transactions. In connection with any agreements of purchase, sale or merger, include copies of pages relating to environmental matters including representations, warranties and indemnities:
  - i. Irving Subway Grating Co., Inc. Harsco acquired substantially all of the assets of Irving Subway Grating Co., Inc. on July 7, 1965. Harsco issued 41,300 shares of Harsco Common Stock for the assets of the Irving Subway Grating Co., Inc. was not merged into Harsco. Irving Subway Grating Co., Inc. filed amended articles of incorporation changing its name to Kent Hollow, Inc., and it was dissolved on July 8, 1965. A General Bill of Sale and an Agreement and Plan of Reorganization by and between Harsco and Irving Subway Grating Co., Inc. are attached as part of the response to Request 1.d.

UPDATED INFORMATION: After the submission of the initial response, Harsco's continuing investigation resulted in the discovery of two binders of documents relating to the 1965 acquisition of the assets of Irving Subway Grating Co., Inc. Although those binders contain some documents which are not relevant to the Newtown Creek Site and contain some duplication, in the interest of full disclosure and because each of the documents may have some relationship to the overall transaction as viewed broadly, Harsco is producing complete copies of those binders on the enclosed CD. From these documents, Harsco is now able to report that Irving Subway Grating Co., Inc. was incorporated on June 27, 1937. The documentation of the change of name to Kent Hollow, Inc. and the dissolution of that company is also contained in the binders and produced on the CD.

ii. Irving Iron Works Company – Harsco assumes but cannot confirm that Irving Iron Works Company was either a predecessor to, or an assumed name used by, Irving Subway Grating Co., Inc. No other relevant information has been identified at the time of this response.

<u>UPDATED INFORMATION:</u> From the documents produced in connection with the response to <u>1.f.i.</u>, it appears that Irving Iron Works Company was merged with Irving Subway Grating Co., Inc. in 1940.

iii. IKG Industries – See Response to Request 1.f.iv.

- Harsco Industrial IKG Harsco Industrial IKG is the current name of an iv. operating division of Harsco. (See. http://harscoikg.com/about/index.aspx.) It has no separate corporate existence. An IKG operating division was originally formed by combining the assets of the former Irving Subway Grating Co., Inc. with the assets of an unrelated company called Kerrigan Iron Works Company, whose assets had been acquired by Harsco on or about May 1, 1966. At various times, the division may have also used the names IKG Industries, Harsco IKG Industries and/or IKG Borden. In the event that Harsco is able to obtain more information as to the usage of those names and the respective dates for each, Harsco will supplement this response.
- v. Harsco IKG Industries See Response to Request 1.f.iv.
- vi. IKG Borden See Response to Request 1.f.iv.
- vii. Patent Construction Systems Patent Construction Systems was a division of Harsco that engaged in the scaffolding rental/sales business, which was completely unrelated to the IKG operations. That name was used until its business was rebranded as Harsco Infrastructure in June 2009. See the attached extract of the Minutes of a Meeting of the Board of Directors for documentation of the name change.
- 2. <u>Future EPA Communications</u>: If the addressee of this letter requests that future communications from EPA regarding the Site be sent to a particular individual or office, provide the name, address, telephone number, e-mail address and capacity of such individual or office.

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#### **Section 2.0** Owner/Operator Information

- 3. Separately provide a brief summary of the Company's relationship to the Facility (see Definition number 9.a for "Facility") and each Other Newtown Creek Property (see Definition number 9.b for "Other Newtown Creek Property"), including:
  - a. Nature of the Company's interest in the Facility and each Other Newtown Creek

Property;

Harsco was the owner of the Facility from August 18, 1965 until September 17, 2008. Harsco has no information that it has, or has ever had, any relationship with any Other Newtown Creek Property other than the fact that Tax Block 113, Lot 11 was included in its deed for sale of the property in 2008. It is presently unknown to Harsco whether Tax Block 113, Lot 11 had actually been merged into Tax Block 113, Lot 1 at some point. See also, Response to Request 3.b and the Agreement for Sale of Real Estate produced in response to Request 3.h.

UPDATED INFORMATION: In addition to the ownership interest in the Facility as reported in Harsco's original response, Harsco has subsequently learned that it held a leasehold interest in "Other Newtown Creek property" as defined in Definition number 9.b. This property has been described as "Bed of 51st Ave. – Land under Midtown Highway ("Land under the Highway"). The legal description is in Response 3.c., below.

Harsco has also been told by former employee Mel Lebrach that he recalls aluminum fabricating stations in a building across the street from the Facility and two lots to the East. Harsco has been unable to identify any documentation of Harsco operations at that location. It is noted that the 1970 Sanborn map provided in the Phase I/II Report, Appendix E shows that approximate location labeled as "Grating Mfg. N.C. – 1967 (BR.).

b. Corporate identity of any entity affiliated with the Company that holds or held such interest;

Irvico Realty Corporation, a New York Corporation which was merged into Harsco, was the owner of the property by virtue of acquiring such ownership under deeds dated November 14, 1961, March 1, 1962 and June 28, 1963. See the deeds produced in response to Request No. 3.h.

<u>UPDATED INFORMATION: Irvico Realty Corporation, which was merged into Harsco, held</u> the leasehold interest in the property before assigning the lease to Harsco. The assignment is provided in the documents in response to Request 1.f.i.

c. Address, Borough, Block and Tax Lot Identification;

According to the 2008 agreement for sale the subject property consists of two tax lots: 50-09 27th Street (Tax Block 113, Lot 1) and 27-21 51st Avenue (Tax Block 113, Lot 11), Long Island City, New York 11101 Borough of Queens, Queens County. Harsco is presently uncertain whether the Tax Block 113, Lot 11 is an accurate or necessary part of the identification.

<u>UPDATED INFORMATION: The description of the Other Newtown Creek Property from lease is Bed of 51st Ave., Block 113 adj., Lot 1, Borough of Queens, Queens County.</u>

d. Map or schematic locating the Facility and each Other Newtown Creek Property;

See attached

UPDATED INFORMATION: Harsco is not aware of any maps which clearly show the Land under the Highway although it is present, though not clearly delineated, on some of the maps that have been produced.

e. Dates of acquisition and date of disposition of interest and identity of transferor and transferee (and if not the owner, state the interest held in the Facility and the identity of lessor, licensor or other person with paramount interest (e.g., property owner, prime leaseholder));

Harsco's ownership of the Facility was the result of a merger with Irvico Realty Corporation, a New York corporation, on August 18, 1965.

Harsco sold the Facility on September 17, 2008. Harsco conveyed the Facility to Bud Media LLC, a New York limited liability company, Coors Media LLC, a New York limited liability company and 34-06 73rd LLC, a New York limited liability company, as tenants in common, by deed dated September 16, 2008 and delivered at a closing held September 17, 2008. See also the response to Request 3.h. and the documents produced in response to that Request.

UPDATED INFORMATION: The owner/lessor of the Land under the Highway was the City of New York. Harsco acquired the lease by assignment from Irvico Realty Corporation on July 7, 1965. Harsco is not sure how long Harsco continued to lease this land. Correspondence files indicate that the lease was renewed at least through 1986.

f. Dates of operation and date of cessation of operation;

To the best of Harsco's present understanding, its operations at the Facility were from approximately July 1965 until approximately September 2008.

UPDATED INFORMATION: Harsco believes that it used the Land under the Highway throughout the period of its leases as reported in the response to 3.e. Harsco does not know whether the leases continued to be renewed until the 2008 sale of the Facility or if the lease terminated sooner. Harsco does not know how long Irvico Realty Corporation, Irving Subway Grating Co., Inc. and possibly Irving Iron works may have used the Land under the Highway prior to 1975, but recently located correspondence indicates that it might have been used as a staging area from perhaps as early as the 1920s.

g. The principal business and each other line of business conducted by the Company at the Facility and at each Other Newtown Creek Property; and

From 1965 until 1997, Harsco's principal business at the Facility was the fabricating of steel gratings. From 1997 until 2008, the principal business was the storage of scaffolding. No other relevant information has been identified at the time of this response.

<u>UPDATED INFORMATION: 3.g – From 1997 until 2008, in addition to storage of scaffolding.</u> Harsco's principal business at the Facility included leasing and maintenance of scaffolding.

### The leased Land under the Highway was used for storage, staging and loading of metal and fabricated grating.

h. Provide a copy of all instruments evidencing the acquisition or conveyance of such interest (e.g., deeds, leases, licenses, purchase and sale agreements, partnership agreements, etc.)

Harsco is producing the requested documents that it has been able to locate. A summary of Harsco's understanding of these documents and the transactions is also provided here. According to Harsco Corporation's (a Delaware corporation herein called "Harsco") records, Irvico Realty Corporation, a New York Corporation, acquired ownership of the Facility under the following three (3) deeds: (i) from James E. Irving, et al., executors of the Estate of Walter E. Irving, dated November 14, 1961 and recorded in Book 7375, Page 527 (combined Parcels I and II and Parcel III); (ii) from Irving Subway Grating Co., Inc., a New York corporation, dated March 1, 1962 and recorded in Book 7401, Page 476; and (iii) from Peerless Oil and Chemical Corp., a New Jersey corporation, dated June 28, 1963 and recorded in Book 7539, Page 461. Although ownership of the Facility had been obtained by Harsco through the merger with Irvico Realty Corporation described at 3.e. above, a deed in confirmation of the merger was also recorded. The confirming deed from Irvico Realty Corporation, a New York corporation to Harsco is dated August 16, 1965 and is recorded in Book 7817, Page 192. That deed contains a consolidated legal property description of the Facility.

Harsco conveyed the Facility to Bud Media LLC, a New York limited liability company, Coors Media LLC, a New York limited liability company and 34-06 73rd LLC, a New York limited liability company, as tenants in common, by deed dated September 16, 2008 and delivered at a closing held September 17, 2008. The recording reference for said deed has not been located in Harsco's records. The sale transaction was completed pursuant to an Agreement for Sale of Real Estate dated August 25, 2008 by and between Harsco (as the seller party) and Mohammad Ashraf Malik, an individual (as the buyer party). By an Assignment and Assumption of Contract and Consent dated September 12, 2008, Mohammad Ashraf Malik assigned his rights under the Agreement for Sale, with Harsco's consent, to the three grantee LLCs identified above, jointly and severally as tenants in common.

Copies of the five (5) deeds mentioned above, the Agreement for Sale of Real Estate and the Assignment and Assumption of Contract and Consent are attached to this response. See also, the documents that accompany the response to Request 1.d. concerning the transaction by which the stock of Irvico Realty Corporation was acquired as part of the assets purchased from Irving Subway Grating Co., Inc. No other relevant information has been identified at the time of this response.

## <u>UPDATED INFORMATION:</u> See the response to Request 1.f.i. and the documents provided in response to that Request.

- 4. Identify all entities which concurrently with the Company exercise or exercised actual control or who held significant authority to control activities at the Facility, including:
  - a. Lessees, sublessees, partners, joint venturers, or holders of easements;

    Harsco is unaware of any lessees, sublessees, partners, joint venturers, or holders of easements who exercised control or held authority to control activities at the Facility.
  - b. Contractors, subcontractors, licensees, or licensors that exercised control over any materials handling, storage or disposal activity;

No relevant information has been identified at the time of this response.

UPDATED INFORMATION: 4.b. In 1995, a limited 1995 Phase I site Assessment Report was completed for the Facility ("1995 Phase I") and is produced in Response 44. In Section 4.4.2, the 1995 Phase I states that Safety Kleen was contracted to containerize and dispose of paint residues. It also states that Safety Kleen provided two parts washing sinks. In addition, Harsco's continuing investigation identified documents indicating that Safety Kleen was contracted to provide waste-related services in 1999 and 2001. See attached "Uniform Hazardous Waste Manifest (07-09-01)", "June-July 2002 correspondence of Harsco and NYSDEC", and "Safety Kleen 1999 invoice and material profile."

c. Pipelines providing delivery of materials to, distribution within or shipment from the Facility;

To the best of Harsco's knowledge direct pipeline delivery to the Facility was not performed during Harsco's ownership.

d. Railroads or rail lines providing delivery of materials to or shipment from the Facility;

To the best of Harsco's knowledge direct railroad delivery to the Facility was not performed during Harsco's ownership.

e. Truckers providing delivery of materials to or shipment from the Facility; and *No relevant information has been identified at the time of this response.* 

UPDATED INFORMATION: 4.e – Harsco has been told by Denise Franklin that she recalls that, at various times, Safety Kleen provided solvents to and transported used solvents and possibly other materials from the Facility. The Tier II reports noted in the supplemental response to Request 22 include reference to a Safety Kleen product. Ms. Franklin also stated that she recalls that, at various times, scrap dealer Charles J. King and other Brooklyn scrap dealers transported scrap metal from the Facility. The 1995 Phase I in Section 4.4.6 states that a scrap steel rolloff was labeled "Gantz Iron and Metal." See also Response 4.b.

f. Barge service companies providing delivery of materials to or shipment from the Facility.

No relevant information has been identified at the time of this response.

- 5. Identify all current or prior owners that you are aware of for the Facility. For each prior owner, further identify, if known, and provide copies of any documents you may have regarding:
  - a. the dates of ownership and operations conducted at such times;

Unless they have transferred the Facility subsequent to August 25th 2008 Bud Media LLC, a New York limited liability company, Coors Media LLC, a New York limited liability company and 34-06 73rd LLC, a New York limited liability company are the current owners of the Facility. Harsco understands that these three separate LLCs are controlled by Mohammad Ashraf Malik.

The prior owners of the Facility include Irvico Realty Corporation, Walter E. Irving, the Estate of Walter E. Irving, Irving Subway Grating Co., Inc., and Peerless Oil and Chemical Company. The dates of each prior owner's (other than Irvico Realty Corporation's) acquisition of the property is unknown. The dates of transfer of the Facility (or portions thereof) are as reflected in the response to Request 3.h. and the documents produced in response to that Request.

See also the response to Request 3.h. and the documents produced in response to that Request.

Irving Subway Grating Co., Inc. is thought to have conducted operations on the property from approximately 1902 or 1904 until 1965.

b. any corporate or real estate affiliation between the Company and each such prior owner; and

Irvico Realty Corporation was merged into Harsco as reported in response to Requests 3.b. and 3.h. Harsco has no known corporate or real estate affiliation with any other prior owner.

c. release of hazardous substances, industrial waste, other waste including petroleum, at the Facility during the period that the prior owners owned the Facility with such details as you are aware of.

No relevant information has been identified at the time of this response.

#### <u>UPDATED INFORMATION: 5.c – See Response 6.d.</u>

- 6. Identify all current or prior operators that you are aware of for the Facility. For each such operator, further identify, if known, and provide copies of any documents you may have regarding:
  - a. the dates of operation and operations conducted at such times;

Harsco believes that Bud Media LLC, a New York limited liability company, Coors Media LLC, a New York limited liability company and 34-06 73rd LLC, a New York limited liability company, and/or Mohammad Ashraf Malik are the current operators of the Facility.

The prior operator of the Facility was Irving Subway Grating Co., Inc. Operators before or connected with Irving Subway Grating Co., Inc. may be indicated by the attached city abstract search.

b. any corporate or real estate affiliation between the Company and each such prior operator;

To the best of its present knowledge, Harsco has no corporate or real estate affiliation with any of the prior operators. Harsco's relationship with Irving Subway Grating Co., Inc. was created through the documents provided with the response to Request 1.d. Harsco does not consider that relationship to constitute a corporate or real estate affiliation.

c. the nature of the operations at such times; and

The Facility is believed to have been operated as a grating fabricating Facility by Irving Subway Grating Co., Inc. from approximately 1902 to 1965.

d. any release of hazardous substances, industrial waste, or other waste including petroleum, at the Facility during the period that the prior operators were operating the Facility.

Harsco is not aware of any such releases. See attached EDR radius map search results. No other relevant information has been identified at the time of this response.

<u>UPDATED INFORMATION:</u> 6.d. Harsco is not aware of any such releases, but notes that the 1995 Phase I in Section 4.4.2 states that drums reportedly containing residual paints were stored on soil and soil staining was observed. In Section 4.4.3, it states that soil staining was observed around the fuel oil UST fill ports and a petroleum odor observed.

- 7. Civil Litigation, Administrative Enforcement and Criminal Matters:
  - a. Has the Company or an affiliate been a party to any litigation, whether as plaintiff or defendant, where an allegation included liability for contamination of or from the Facility or any other facility located within 1,000 feet of Newtown Creek (whether or not owned or operated by the Company)? If yes, identify such litigation and its disposition, briefly describe the nature of the Company's involvement in the litigation and provide a copy of the pleadings and any final order.

Harsco has not been a party to any litigation described in this request.

b. Has the Company or an affiliate been identified by EPA or by any New York State or New York City agency as a party responsible for environmental contamination with respect to the Facility or any other facility located within 1,000 feet of Newtown Creek (whether or not owned or operated by the Company)? If yes, state the Company's understanding of the basis for such notice of responsibility and provide a copy of any correspondence, orders or agreements between the Company and the governmental agency.

No relevant information has been identified at the time of this response.

c. Has the Company or an employee, affiliate, contractor or agent ever been accused of any criminal violation relating to illegal disposal or any other environmental matter in connection with any activity or operation at the Facility? If so, describe the disposition of such accusation and provide details on such accusation.

No relevant information has been identified at the time of this response.

- 8. <u>Ownership of Newtown Creek</u>: At the present time or at any past time, has the Company or any affiliate:
  - a. Owned any portion of Newtown Creek or wetlands associated with Newtown Creek?

It is Harsco's understanding that the property ownership ended at the bulkhead. Harsco is not aware of any wetlands on the Facility. No other relevant information has been identified at the time of this response.

b. Asserted control or exclusive rights to use any area of Newtown Creek or wetlands associated with Newtown Creek, for any purpose including, without limitation, dredging, filling, construction, maintenance, or repair of any facility located in the waters, the associated wetlands or sediments, including, by way of example, bulkheads, rip rap, pipes, wharfs, piers, docking, loading or unloading facilities, cranes or over-water facilities?

There was a bulkhead at the Facility. No other relevant information has been identified at the time of this response.

c. If the answer to either subparagraph "a" or "b" of this paragraph is yes, please identify the areas owned or controlled, or over which the company has a right to use, provide an explanation of how and from whom the Company acquired such ownership or control, provide a copy of all title documents, leases, permits or other instruments where such right was derived, and describe all activities conducted pursuant thereto.

See attached survey of property in 11c. No other relevant information has been identified at the time of this response.

#### 9. Operations In, Under or Over the Waters or On the Sediments of Newtown Creek:

a. Describe all activities at the Facility that were conducted over, on, under or adjacent to, Newtown Creek. Include in your description whether the activity involved hazardous substances, industrial waste, petroleum, or other waste materials and whether any materials were ever discharged, spilled, disposed of, dropped, or otherwise came to be located in Newtown Creek.

The Facility is adjacent to Newtown Creek. The activities at the Facility, including the materials used and wastes generated, are described in the response to Request No. 20. To the best of Harsco's present knowledge, those activities were not conducted over, on, or under Newtown Creek but they are discussed here because the Facility was adjacent to Newtown Creek. No records of spills were found for the subject property see 6d. No other relevant information has been identified at the time of this response.

#### UPDATED INFORMATION: 9.a. See Response 6.d.

b. Has the Company or an affiliate at any time, constructed or operated any facility in or over the waters or on the sediments of Newtown Creek, including any bulkheads, rip-rap, pipes wharfs, piers, docking, loading or unloading facilities, containment booms, cranes or other on-water or over-water facilities?

Harsco did not construct the bulkhead at the Facility and Harsco does not believe a bulkhead is "operated" in the ordinary sense of the word, but a bulkhead was present at the Facility. No other relevant information has been identified at the time of this response.

c. Has the Company or an affiliate at any time constructed, operated, or utilized any facility under the waters or sediments of Newtown Creek, including without limitation pipes, pipelines, or other underwater or under sediment facilities?

No relevant information has been identified at the time of this response.

d. If the answer to subparagraph "b" or "c" of this paragraph is yes, please provide details including the facilities constructed or operated, the dates of such construction, replacement or major modification, whether there were discharges into the waters of Newtown Creek associated with construction or maintenance of such facilities, all permits associated with the construction or operation and the nature of the Company's authorization to construct or maintain such facilities in Newtown Creek including from whom the operating rights were obtained, and provide copies of relevant deeds, leases, licenses, and permits.

No relevant information has been identified at the time of this response.

e. Provide a summary of over-water activities conducted at the Facility, including but not limited to, any material loading and unloading operations associated with vessels, materials handling and storage practices, ship berthing and anchoring, ship fueling, cleaning, maintenance, or repair.

It is Harsco's understanding that during Harsco's ownership over-water activities were not conducted. No other relevant information has been identified at the time of this response.

f. If the Company has utilized barges, lighters, tankers, or other vessels in any operations on Newtown Creek, please provide details. With respect to vessel operations:

Not applicable. To the best of Harsco's knowledge, no barges, lighters, tankers, or other vessels were utilized by Harsco in any operations on Newtown Creek.

- i. Identify all products and raw materials transferred to or from barges, tanks and ships and the dates of such operations;
- ii. Describe the method of transfer to and from barges or other ships during all periods of such activities;

- iii. Identify the types of barges or ships utilized and the depth of the water where barges or ships were moored;
- Describe barge, tanker or other ship cleaning operations, if any, including the cleaning methods that were used, how cleaning waste was handled; and
- v. Describe spill prevention controls that were utilized in delivery or pick-up of materials.
- g. State whether any of the operations required to be identified above resulted in disposal or spillage of any materials into Newtown Creek or the re-suspension of any sediment of Newtown Creek. If the answer is a "yes" please provide details and documentation of such events.

None to our knowledge

10. Identify each Other Newtown Creek Property (see Definition number 9.b for "Other Newtown Creek Property") that your Company presently (or previously) owns (or owned), leases (or leased), manages (or managed), operates (or operated), controls (or controlled), or otherwise has or had rights to use, manage or operate, within the area extending one-thousand feet from the shoreline of Newtown Creek (definition number 1 above defines "Newtown Creek" to include all tributaries or branches of Newtown Creek). Include among such properties all facilities currently or previously owned or operated by any Harsco Corporation or any current or previous affiliate of Harsco Corporation.

No relevant information has been identified at the time of this response.

<u>UPDATED INFORMATION:</u> Please see the supplemental responses to Request number 3 and its subparts, as well as the documents referred to in that response.

#### Section 3.0 Description of the Facility

- 11. Provide the following information for the Facility, including a description responsive to each question and depictions by map, drawing, survey, or otherwise:
  - a. Address and borough, block and lot (if the New York City address or tax lot denomination has changed, please provide, to the extent known, the address in effect at the time of ownership and operation as well as the modern address and tax lot identification);

According to the 2008 agreement for sale the subject property consists of two tax lots: 50-09 27th Street (Tax Block 113, Lot 1) and 27-21 51st Avenue (Tax Block 113, Lot 11), Long Island City, New York 11101 Borough of Queens, Queens County. Harsco is presently uncertain whether the Tax Block 113, Lot 11 is an accurate or necessary part of the identification.

 historic photographs, including without limitation, aerial photographs, photographs showing construction, industrial or commercial processes, sanitary and storm sewer systems, outfalls, indoor and outdoor storage of materials or products, and photographs during construction;

See attached aerial photos.

### <u>UPDATED INFORMATION: 11.b. The 1995 Phase I and the Phase I/II Report include copies of photographs.</u>

 all surveys and drawings of the Facility in your possession showing current configurations and improvements as well as previous configurations and improvements;

See attached Sanborn maps and property survey.

### <u>UPDATED INFORMATION: 11.c.</u> The 1995 Phase I includes a General Site Plan dated 12/1/95.

 sanitary sewer system information, including drawings, sewer easements, surveys, or maps showing location and configuration both as currently configured and previous configurations;

In 2006, a Phase I Environmental Site Assessment and Limited Phase II were completed for the Facility. A combined Phase I Environmental Site Assessment and Limited Phase II Report (hereinafter referred to as the "Phase I/II Report" is provided in response to Request No. 44, which requests a copy of all environmental investigation reports. (For convenience, certain portions are also separately provided in response to some requests.)

We have no other information other than provided in the included Phase I/II Report that stated: Site contains three septic tanks with ejector pumps located in different areas of the warehouse spaces. A float switch activated the ejector pumps. Reportedly when these tanks fill up the contents are then pumped to the municipal sewer system. A suspended, rectangular waters storage tank is also located in the warehouse area. This tank is used for the fire suppression system of the warehouse.

### <u>UPDATED INFORMATION: 11.d. The Phase I in Section 4.4.7 describes discharges to sanitary sewers.</u>

e. storm water sewer system information, including drawings, surveys or maps showing location and configuration both as currently configured and previous configurations;

No relevant information has been identified at the time of this response.

### <u>UPDATED INFORMATION: 11.e. The 1995 Phase I in Section 4.4.7 describes stormwater catch basins.</u>

f. all below-ground structures, including, pipes, pipelines, sumps, wells, dry-wells, and other structures for storage or conveyance of solid, gaseous or liquid materials, whether above ground or below ground, and whether owned or operated by you or by another, and as presently configured and as previously

configured;

During Harsco's ownership two underground storage tanks and associated piping were used to store heating oil. No other relevant information has been identified at the time of this response.

<u>UPDATED INFORMATION:</u> The 1995 Phase I and the Phase I/II Report include information on the underground storage tanks, as described in various Responses. For instance, the 1995 Phase I addresses the underground storage tanks in Section 4.4.3 and locates them on the General Site Plan in Figure 2 to that document.

g. all above-ground structures, including buildings and including all facilities for storage or transport of solid, liquid or gaseous materials, whether owned or operated by you or by another, and as presently configured and as previously configured;

We are not aware of any above ground structures for the storage of liquids or gaseous materials.

h. all over-water or in-water facilities (e.g., piers, docks, cranes, bulkheads, pipes, treatment facilities, containment booms, etc.);

A Bulkhead Condition Survey is attached. No other relevant information has been identified at the time of this response.

i. all treatment or control devices for all media and pursuant to all environmental laws and regulations (e.g., surface water, air, groundwater, hazardous waste, solid waste, etc.):

It is the understanding of Harsco that the Facility did not maintain any treatment or control devices during ownership.

<u>UPDATED INFORMATION:</u> 11.i. The 1995 Phase I in Sections 4.4 (p.7) and 4.4.7 describe pH-adjustment of weak acid and/or caustic parts rinse tanks plus oil/water separation prior to discharge to sanitary sewers.

- j. groundwater wells, including drilling logs; and
  Soil boring logs are attached from the limited Phase II Report. No other relevant information has been identified at the time of this response.
- k. information related to any other outfalls, ditches, direct discharge facilities, or other conveyance features and any discharges associated therewith.

To the best of our knowledge all drains drained to the sewer as per information provided in the attached Phase I/II Report attached in response to Request No. 44. No other relevant information has been identified at the time of this response.

#### <u>UPDATED INFORMATION: 11.k. See Response 11.e.</u>

12. For all items identified in subparagraphs e, f, g, h, i, j, or k, of the previous question,

locate each such item on a Facility map or plan, provide the date of installation, identify all permits associated with each item, state whether such items are still in service or, if not, when they were removed from service, identify all leaks or spills, if any, associated with each, and identify any closure of any such item.

See attachments previously referenced in the responses to Requests 6.d. (regarding searches for information on spills or releases) and 11.c. (survey map) and 11.h. (Bulkhead Condition Survey). To the best of Harsco's knowledge no known recordable spills or releases occurred during Facility ownership. No other relevant information has been identified at the time of this response.

#### UPDATED INFORMATION: 12. See 11.c.

13. For each environmental permit issued with respect to the Facility during the Company's period of ownership or operation, identify the type of permit, the agency or governmental authority issuing the permit and provide a copy of the permit, the permit application, and any reports required to be generated by the permit.

No relevant information has been identified at the time of this response.

#### UPDATED INFORMATION: See Response 27 and Response 29.

- 14. With regard to the placement of fill at the Facility:
  - a. Was any fill placed on the Facility during the initial development or redevelopment of the Facility by the Company, or at any time thereafter? If so, identify all areas of the Facility where fill was placed, the lateral extent of the fill and the depth of the fill, the purpose of the placement, the source of the fill, the amount of the fill in each area, and the identity of the contractors involved in work related to the fill. State whether the fill has ever been characterized, either before placement or thereafter and, if so, provide a copy of the sampling/characterization results.

No relevant information has been identified at the time of this response.

b. Were any portions of the Facility historically part of Newtown Creek or did the Facility formerly include any marshlands or wetlands associated with Newtown Creek? Please depict any such areas on a survey, drawing or schematic. Please provide your understanding of who filled any such wet areas, the approximate date of such fill, and the lateral extent and depth of such fill, the source of the fill, the composition of the fill and, if any sampling has ever been done of such filled areas, provide a copy of the sampling results.

No relevant information has been identified at the time of this response.

15. Provide a copy of all reports, information or data you have related to soil, water (ground and surface), or air quality and geology/hydrogeology at and about the Facility. Provide copies of all documents containing such data and information, including both past and current aerial photographs as well as documents containing analysis or interpretation of such data.

Enclosed is a historical topographic map search as well as sampling

results from the limited Phase II as provided in the Phase I/II Report. See also aerial photos requested in question 11.b. No other relevant information has been identified at the time of this response.

#### UPDATED INFORMATION: See 1995 Phase I Section 2.2.

16. Identify all past and present solid waste management units or areas where materials are or were in the past managed, treated, or disposed (e.g., waste piles, landfills, surface impoundments, waste lagoons, waste ponds or pits, drainage ditches, tanks, drums, container storage areas, etc.) on the Facility. For each such unit or area, provide the following information, if available:

To the best of Harsco's knowledge during Harsco's ownership the Facility did not manage any solid waste management units. No other relevant information has been identified at the time of this response.

### <u>UPDATED INFORMATION:</u> The 1995 Phase I in Sections 4.4 and 4.4.2 as well as the General Site Plan describes trash, scrap metal, residual paint, and other storage of materials on the site.

- a. a map showing the unit/area's boundaries and the location of all known units/areas whether currently in operation or not. This map should be drawn to scale, if possible, and clearly indicate the location and size of all past and present units/areas;
- b. dated aerial photograph of the Site showing each unit/area;
- c. the type of unit/area (e.g., storage area, landfill, waste pile, etc.), and the dimensions of the unit/area;
- d. the dates that the unit/area was in use:
- e. the purpose and past usage (e.g., storage, spill containment, etc.);
- f. the quantity and types of materials (hazardous substances and any other chemicals) located in each unit/area;
- g. the construction (materials, composition), volume, size, dates of cleaning, and condition of each unit/area; and
- h. if the unit/area described above is no longer in use, explain how such unit/area was closed and what actions were taken to prevent or address potential or actual releases of waste constituents from the unit/area.
- 17. Provide the following information regarding any current or former sewer or storm sewer lines or combined sanitary/storm sewer lines, drains, or ditches discharging into Newtown Creek from the Facility:

Harsco does not possess this information. According the Phase I/II Report all Facility drains discharge to the municipal sewer. No other relevant information has been identified at the time of this response.

#### UPDATED INFORMATION: See also Response 11.e related to stormwater basins.

a. the location and nature of each sewer line, drain, or ditch;

No relevant information has been identified at the time of this response.

- b. the date of construction of each sewer line, drain, or ditch;

  No relevant information has been identified at the time of this response.
- c. whether each sewer line, drain, or ditch drained any hazardous substance, waste, material or other process residue to Newtown Creek; and

Based upon the Phase I/II Report, all drains discharge to the municipal sewer system and not to Newtown Creek.

d. provide any documentation regarding but not limited to the following on any and all outfalls to Newtown Creek which are located within the boundaries of the Facility. Your response should include, but not be limited to:

No relevant information has been identified at the time of this response.

- i. whether the Facility is serviced by or otherwise drains or discharges to the outfalls and, if so, the source of the outfall;
- ii. the identify of upland facilities serviced by the outfalls;
- iii. the upland geographic area serviced by the outfalls; and
- iv. the type of outfall (i.e., storm water or single or multiple facility outfall).
- 18. Provide copies of any storm water or Facility drainage studies, including data from sampling, conducted at these Properties on storm water, sheet flow or surface water runoff. Also provide copies of any storm water pollution prevention, maintenance plans or spill plans developed for different operations during the Company's operation of the Facility.

Harsco could not locate stormwater permits nor records of drainage studies.

- 19. Connections to New York City sewer system:
  - a. State whether the Facility is connected to the New York City sewer and the date that the Facility was first connected;

According to the Phase I/II Report, the Facility was connected to a municipal sewer. Harsco is uncertain whether the reference was to the New York City sewer system or whether it could have been some other local one. Harsco is unaware if the Facility is still connected following sale of property. No other relevant information has been identified at the time of this response.

### <u>UPDATED INFORMATION: 19.a. The 1995 Phase I in Section 4.4.7 states that the drains</u> "reportedly connect" to the New York City sewer system.

- b. State whether the Facility has ever discharged liquid wastes other than through the New York City sewer system and, if so, provide details on such discharges;

  It is Harsco's understanding from the Phase I/II Report that the only
  - It is Harsco's understanding from the Phase I/II Report that the only known discharge was through sewer system. No other relevant information has been identified at the time of this response.
- c. State whether the Facility participates in the New York City pretreatment

program, whether the Company has ever been classified as a significant industrial user, and whether the Company has ever been in violation of sewer use requirements or permits or received any notices of violation relating to use of the New York City sewer system;

Harsco has no knowledge if the Facility currently participates or has participated in the New York City pretreatment program. No violations of sewer use requirements were reported in the Phase I/II Report. Copies of the responses to the FOIL requests made during the Phase I investigation are attached. No other relevant information has been identified at the time of this response.

d. Provide any information detailing the volume of liquids discharged to the sewers and the nature of the discharges including analytical data detailing the makeup of the discharged liquids;

No relevant information has been identified at the time of this response.

#### <u>UPDATED INFORMATION: 19.d. See Response 11.i.</u>

e. Provide copies of all permits and permit applications for Industrial Wastewater discharge permits;

No relevant information has been identified at the time of this response.

f. Provide copies of all notices of violations, correspondence, hearing transcripts, and dispositions relating to the Company's use of the New York City sewer system;

See the response to Request No. 19.c. No other relevant information has been identified at the time of this response.

g. Copies of any Baseline Monitoring Reports submitted to New York City in connection with the Company's application for an industrial wastewater discharge permit;

No relevant information has been identified at the time of this response.

h. Copies of all surveys, reports or analyses delineating or characterizing the Company's liquid wastes;

No relevant information has been identified at the time of this response.

i. Copies of all periodic monitoring reports for wastes discharged through the sewer system;

No relevant information has been identified at the time of this response.

j. Copies of all invoices from New York City or the New York City Water Board for water and/or wastewater charges including any wastewater allowances.

No relevant information has been identified at the time of this response.

#### Section 4.0 Company's Operational Activities

- 20. Describe the nature of your operations or business activities at the Facility. If the products, processes, operation, or business activity changed over time, please identify each separate operation or activity, the dates when each operation or activity was started and, if applicable, ceased. Also, please provide the following:
  - a. Identify and describe the metal fabricating, steel flooring, steel grating, aluminum grating, stair treads manufacturing, and steel decking business activities conducted at the Facility;

The main processes included punch (geared) and hydraulic presses, on which steel and aluminum parts were fabricated and assembled into the types of end products listed above and similar items. It is believed stainless steel materials were also used. The punch presses were used to punch indexed holes in metal bar to allow riveting pieces together for grating and other products. The hydraulic presses were used to press cross bars into notched bar prior to hand-welding.

Hand-welding stations were also used for fabrication and repair activities.

Coatings were applied using dip-tank[s].

The Phase I/II Report states that acid and water dip tanks were used for some of the grates manufactured by IKG Industries.

Although some products were sold in galvanized form, galvanizing was outsourced and not performed at the Facility.

b. In addition to the metal fabricating, steel flooring, steel grating, aluminum grating, stair treads manufacturing, and steel decking business activities, identify each other business activity for which the Facility has been used since its acquisition by the Company;

It is believed that a variety of fabricated metal products were produced at the Facility using the processes described above.

The Phase I/II Report states that Patent Construction Systems used the property beginning in 1997 for the sales/rental, storage, maintenance, and repair of scaffolding, concrete forming and shoring products.

- c. Identify each industrial process employed at the Facility and the raw materials used and the wastes generated;
  - Punch presses: Steel, aluminum, and stainless steel raw materials. Process would have been lubricated, generating used and excess lubricant waste as well as scrap metal.
  - Hydraulic presses: Steel, aluminum, and stainless steel raw materials. Process would have been lubricated, generating used and excess lubricant

waste as well as scrap metal. Lubricants and hydraulic fluid raw materials and wastes expected would be those typically used for the size and nature of the presses and activities in the relevant years of operation.

- Welding stations: No specific information. Raw materials and wastes expected would be those typical of general welding activities in the relevant years of operation.
- Dip coating tank[s]: No specific information. Raw materials and wastes expected would be those typical of general dip coating activities in the relevant years of operation. The Phase I/II Report Appendix A includes a photograph labeled "Drums of waste paint staged on spill skids in the warehouse area" and states that the drums are from the dip-tank process.
- The Phase I/II Report Appendix A includes a photograph labeled "Drums of hydraulic oil stored on spill skids in the warehouse" and states that it was used at the time of the Phase I/II Report primarily for oiling the cables that are rented out to customers.
- The Phase I/II Report Appendix A includes a photograph labeled "Drum of Bioform on spill skid in warehouse" and states that numerous 55-gallon drums of Bioform, a 100% biodegradable, vegetable oil mix, were located in the concrete form area of the warehouse, and used at the time of the Phase I/II Report report to keep the concrete form sticking to the forms.
- The Phase I/II Report states that latex paint was used at the time of the Phase I/II Report for re-painting scaffolding equipment.
- The Phase I/II Report notes a NY Manifest record of two drums of D001 Non-Listed Ignitable Wastes disposed of by IKG Industries in 1983 (gives EPA ID #).

It is unknown to what process, if any, this manifest record may have related.

#### UPDATED INFORMATION: 20.c -

- Degreasing operations. Raw materials and wastes expected would be those typically associated with degreasing in the relevant years of operation. Also see Response 11.i.
- Harsco has also been told by Denise Franklin that she recalls some painting done outside the building. Harsco has been unable to identify any documentation of painting outside the building.
- Harsco has been told by former employee Mel Lebrach that dip coating colors may have included red oxide, orange-red (before 1968), black, small amount of miscellaneous colors. Mr. Lebrach stated that he believes

the coatings were likely originally bitumastic and later replaced by water-based coatings. In addition, the Tier II reports noted in the supplemental response to Request 22 include reference to chemicals that appear to be consistent with coating operations. Also, the 1995 Phase I states that red and black water-based paints were being used. Finally, the Safety Kleen 1999 Invoice and Material Profile provided in Response 4.b identifies the material involved as waste paint sludge.

d. Provide a schematic diagram or flow chart that fully describes and/or illustrates the Company's operations, as it evolved over time, and the time period covered by such operation, at the Facility;

No relevant information has been identified at the time of this response.

e. Provide a schematic diagram that indicates which part of the Company's operations generated each type of waste, including but not limited to wastes generated by cleaning and maintenance of equipment and machinery and wastes resulting from spills of liquid materials;

No relevant information has been identified at the time of this response.

#### UPDATED INFORMATION: 20.e. See 1995 Phase I Section 4.4 et seq.

- f. Describe all settling tank, septic system, pretreatment system sludges or other treatment wastes resulting from the Company's operations;

  See response to Request 11.d. as to septic tanks. No other relevant
  - information has been identified at the time of this response.
- g. Provide copies of any Material Safety Data Sheets ("MSDSs") and Right-to-Know Notices for raw materials used in the Company's operations; No relevant information has been identified at the time of this response.

## <u>UPDATED INFORMATION: 20.g – After the submission of the initial response, Harsco's continuing investigation resulted in the discovery of the attached MSDSs.</u>

- h. Provide copies of MSDSs for each product produced at the Facility; and *No relevant information has been identified at the time of this response.*
- i. Provide product literature and advertising materials for each product produced at the Facility.

*No relevant information has been identified at the time of this response.* 

UPDATED INFORMATION: 20.i – After the submission of the initial response, Harsco's continuing investigation resulted in the discovery of certain product literature dating back as far as 1923 that appears to represent products produced at the Facility. A representative sample of the materials is attached, along with an index. If requested, Harsco can provide copies of the other materials.

21. Did the Company store or combust coal at the Facility during the time of its ownership or operation? If your answer is yes, please respond to the following requests for information for all periods of time that the Company operated at or owned the Facility:

No relevant information has been identified at the time of this response.

<u>UPDATED INFORMATION:</u> The 1995 Phase I in Section 4.4 described the presence of an out of service coal furnace and stated that it had been used to heat the manufacturing building and replaced with fuel oil heating in 1953.

- a. Identify the purposes for such coal storage or combustion, including if used in energy production and the processes in which the energy was used at the Facility;
- b. State the means by which the shipments of coal were delivered to the Facility, whether by barge, rail, truck or other, and identify the shipper and the vendor. Describe how the coal was received at the Facility and transported to storage facilities;
- Identify the volume of coal received at the Facility, the type or types of coal (i.e. bituminous, anthracite, etc.) received and consumed on an annual basis during the period of the Company's ownership or operations, including changes over time;
- d. Describe the means of storage of coal at the Facility, including whether the Facility employed coal pockets or other storage areas, the dimensions and volume of such storage facilities, and whether such storage was indoors or outdoors and covered or uncovered. Identify on a Facility map or diagram the location of the coal storage facilities. Describe the means of transport of the coal from the storage facilities to the combustion point;
- e. Identify how the coal ash was managed including the location and storage facilities for the coal ash and whether it was stored indoors or outdoors, covered or uncovered, the means of conveying the ash to the on-site storage facilities, the location of the storage facilities, and, if sent for disposal, identify the disposal companies. State whether the ash was ever used at the Facility, whether as fill or for any other purpose, or if it was in any other manner disposed of at the Facility and, if so, describe the circumstances and identify the areas of disposal on a Facility map;
- f. State whether there were Company written manuals providing for coal purchase, storage, maintenance of storage facilities, transport, consumption, or ash management and, if so, provide a copy of such written materials; and
- g. State whether there were any permits associated with the coal receipt, storage, consumption, or ash management and, if so, provide a copy of such permits.
- 22. Describe the receipt, storage and off-shipment of chemicals, raw materials, intermediary product, and final product (including, without limitation petroleum) at the Facility. For each question, identify the time period covered by your response. Please provide a copy of Company manuals that over time were in effect describing these procedures.

<u>UPDATED INFORMATION: 22. After the submission of the initial response, Harsco's continuing investigation resulted in the discovery of the attached Tier II reports listing certain chemicals stored at the Facility for reporting years 1993, 1994, 1995, and 1996 and the</u>

### handwritten notations included with each. See also descriptions of material storage in the 1995 Phase I, Sections 4.4 et seq.

- a. For receipt of materials, please identify:
  - No relevant information has been identified at the time of this response.
  - 1. all such materials (including, without limitation, petroleum) received, stored at or shipped from the Facility;
  - 2. its method of shipment to the Facility (e.g., pipeline, barge, rail, tanker, truck, or other);
  - 3. testing, if any, upon receipt of such material, for quality, for conformity to specification, for contamination or otherwise; and
  - 4. treatment, if any, at the Facility of any material shipped to the Facility, prior to storage in tanks at the Facility.
- b. For chemicals: Identify chemicals acquired for use at the Facility including the identification of each such chemical, the purpose for which it was acquired, any testing done on such materials upon receipt, the method of storage whether in the warehouse, in storage tanks or otherwise. Describe all processes for which each such chemical was used at the Facility. Identify all spills, emissions, discharges, and releases of any such chemical since the time that your Company has owned the Facility and, if you know, prior to your ownership and/or operations at the Facility. Please provide copies of MSDSs for each such chemical.

See response to 20.C. No other relevant information has been identified at the time of this response.

#### UPDATED INFORMATION: 22.b See Response 20.g.

c. For metals and metal compounds (including but not limited to raw materials, scrap, byproducts, ash, wastewater, and wastes containing metals or metal compounds but not including metals as components of structures or equipment): Identify any metals and metal compounds previously or currently used or otherwise present at the Facility, the purpose for each of them, any testing done on such materials, and the method and location of use, storage and other handling of such materials at the Facility. Identify all spills, emissions, discharges, and releases of any such substances at or from the Facility since the time that your Company owned or operated the Facility. Please provide any MSDSs for each such substance.

Steel and aluminum bar and other products were used as raw materials, and it is believed stainless steel was also used as a raw material. It is assumed that scrap metal was generated from time to time in the form of trimmings and off-spec products.

d. For polychlorinated biphenyls ("PCBs"): identify any PCBs previously or currently used or otherwise present at the Facility, including, but not limited to (i) PCBs in plasticizers, fire retardants, paints, water-proofing, railroad ties, heat

stabilizing additives for adhesives, and other materials; (ii) PCBs in capacitors, transformers, vacuum pumps, hydraulic systems, and other devices; and (iii) PCBs in raw materials, wastes, wastewater, scrap, and byproducts; identify the purpose for each of them, any PCB testing done on such materials, and the method and location of use, storage and other handling of PCBs at the Facility; and identify all spills, emissions, discharges, and releases of any PCBs at or from the Facility since the time that your Company has owned the Facility. Please provide any MSDSs for PCBs at the Facility.

No relevant information has been identified at the time of this response.

e. Provide copies of any records, including Company manuals or written procedures that you have in your possession, custody or control, relative to the activities described in this Question.

No relevant information has been identified at the time of this response.

23. Describe the years of use, purpose, quantity, and duration of any application of pesticides or herbicides on the Facility. Provide the brand name of all pesticides or herbicides used.

No relevant information has been identified at the time of this response.

24. For all periods of the Company's ownership or operation of the Facility, describe how wastes transported off the Facility for disposal or treatment were handled, stored and/or treated prior to transport to the disposal facility.

The Phase I/II Report describes wastes on-site at the time of the Phase I/II Report. No other relevant information has been identified at the time of this response.

#### UPDATED INFORMATION: 24. See 1995 Phase I Section 4.4 et seq.

25. Describe the cleaning and maintenance of the equipment and machinery involved in these operations, including but not limited to:

*No relevant information has been identified at the time of this response.* 

#### UPDATED INFORMATION: 25. See 1995 Phase I Section 4.4 et seq.

- a. the types of materials used to clean/maintain this equipment/machinery;
- b. the monthly or annual quantity of each such material used;
- c. the types of materials spilled in the Company's operations;
- d. the materials used to clean up those spills;
- e. the methods used to clean up those spills;
- f. where the materials used to clean up those spills were disposed of;
- g. copies of Company manuals or procedures relating to cleaning of equipment and machinery at the Facility; and
- h. copies of all records of such cleaning and maintenance including internal records and records from any outside vendor for such services.
- 26. Describe all wastes disposed by the Company into drains at the Facility, including but not

#### limited to:

- a. the nature and chemical composition of each type of waste;
- b. the approximate quantity of those wastes disposed by month and year;
- c. the location to which these wastes drained (e.g. Facility drains to Newtown Creek, sheet flow to Newtown Creek, septic system, storage tank at the Facility, oilwater separator, pre- treatment plant, New York City sewer system);

The Phase I/II Report states: "Reportedly, all sinks and drains on the property are connected to the municipal sewer system."

d. whether and what pretreatment was provided.

No other relevant information has been identified at the time of this response.

#### UPDATED INFORMATION: 26. See Response 11.e.

27. Identify each fixed above-ground storage tank and each fixed below-ground storage tank that is or was situated on the Facility during the Company's ownership or operation. Provide a copy of all permits relating to the tank and provide a copy of all Company written manuals or procedures, including manuals that have been superseded by newer manuals or procedures, addressing use and maintenance of such tanks. For each tank, identify:

The Phase I/II Report identified no record of an aboveground storage tank at the Facility. The Phase I/II Report identified two fuel oil USTs listed in the NYSDEC UST database as abandoned in-place in 1998, and included records of soil sampling for each. No other relevant information has been identified at the time of this response.

UPDATED INFORMATION: 27. Appendix B of the 1995 Phase I includes a copy of a 12/22/92 Petroleum Bulk Storage Registration Certificate issued by the New York State Department of Environmental Conservation ("UST Registration"). The UST Registration lists the installation dates for the two USTs as 10/53 and 7/61.

- a. date of installation;
- b. dates and nature of major modifications;
- c. dates and nature of spill detection equipment;
- d. dates and nature of cathodic protection equipment;
- e. a description or drawings of any such tank;
- f. the identity of contents that have been stored in any such tank both before (if known) or during the Company's ownership or operation;
- g. practices of cleaning at the time of any change in items stored;
- h. manner of ultimate disposal of wastes from the tank;
- i. any procedures for addressing spills from the tanks; and
- j. all spills that have occurred during the Company's ownership of the Facility. Based on Harsco's knowledge no AST or UST releases occurred during Harsco's ownership of the property.
- 28. Identify each pipeline serving the Facility that is or was situated on the Facility property (either above- or below-ground) during the Company's ownership or operation. For each

#### pipeline, please:

Harsco is unaware of any pipeline servicing the Facility or situated on subject Facility.

- a. identify the owner and the operator of the pipeline servicing the Facility. If there are separate owners or operators of the pipeline for the segments located on the Facility and the segment located off the Facility, please identify all such owners and operators;
- b. provide a copy of all permits maintained by the Company relating to the pipeline on the Facility and the date of installation;
- c. identify all materials transported to the Facility through the pipeline, including, without limitation, crude petroleum, petroleum products, additives, other refining materials, batch separators, natural gas, manufactured gas, other fuels, chemicals and/or other materials;
- d. describe pipeline cleaning processes and procedures for handling and disposal of wastes in the pipelines including mixed batches of materials in the pipeline;
- e. identify procedures for addressing spills from the pipelines;
- f. identify all spills that have occurred during the Company's ownership or operation of the Facility; and
- g. provide a copy of all Company written manuals or procedures, including manuals that have been superseded by newer manuals or procedures, which address or regulated use and maintenance of such pipelines.

#### **Section 5.0** Regulatory Information

29. Identify each federal, state and local authority that regulate or regulated environmental concerns relating to the ownership or operation at the Facility, the activity regulated and the applicable federal, state and local statute or regulation from which such regulation was derived.

The Phase I/II Report includes a report of computerized database sources of regulatory agency records for Federal, State, and local environmental agencies for the purpose of helping to assess the likelihood of problems from migrating hazardous substances or petroleum products. The report identified several areas of environmental regulation relevant to the Facility:

IKG Industries was listed as a registered small quantity generator of hazardous waste, subject to regulation by the United States Environmental Protection Agency

The Phase I/II Report states that the subject property is listed in the U.S. EPA FINDS database due to IKG Industries operations, with additional information regarding the property in the following databases: AFS, AIRS, CDS, NEDS, SAROAD, NCDB, FIFRA, and TSCA. The Phase I/II Report did not contain additional information on this topic.

NYS Registered Storage Tank (UST), presumably subject to regulation by the New York State Department of Environmental Conservation NY Manifest, presumably subject to regulation by the New York State Department of Environmental Conservation

No other relevant information has been identified at the time of this response.

UPDATED INFORMATION: The 1995 Phase I states in Section 6.3 that the subject property was identified as a RCRA large-quantity generator on the June 1995 RCRA database. See also Response 27. Harsco's continuing investigation identified invoices from the New York State Department of Environmental Conservation and other information related to Air Pollution Program Fees and National Pollutant Discharge Elimination System Program Fees for the years 1998, 2000, and 2001. See attached. It is not clear whether permits were issued in relation to the fees assessed. The section of the invoice addressing Air Pollution Program Fees lists a certificate to operate issue date of 8/15/1992 and there are several identifying numbers listed on the invoices.

30. Describe all occurrences associated with violations, citations, deficiencies, and/or accidents concerning the Facility related to environmental concerns. Provide copies of all documents associated with each occurrence described.

As per Phase I/II one written formal RCRA (oversight) violation was listed in environmental database search that occurred on 7/13/1994, details of the violation were not outlined. See the attached record. No other relevant information has been identified at the time of this response.

31. Provide a list of all local, state and federal environmental permits which have been applied for or issued to the Company with respect to the Facility for any media, e.g., water (including State Pollutant Discharge Elimination System and National Pollutant Discharge Elimination System, New York City sewer, Industrial Pretreatment Program or any other wastewater discharge related governmental authorization or notice), excavation and fill in navigable waters, dredging, tidal wetlands, air, solid waste or hazardous waste, bulk storage, industrial wastewater, etc. under any environmental statute or regulation. Provide a copy of each federal or state permit and the applications for each permit.

No relevant information has been identified at the time of this response.

#### UPDATED INFORMATION: See Response 29.

32. Was a Notification of Hazardous Waste Activity ever filed with EPA or New York State for any activity at the Facility during the period that the Company or an affiliate owned or operated at the Facility? If so, provide a copy of such notification and the response given by EPA or New York State including the RCRA identification number assigned.

As per the Phase I/II, the Facility was a small quantity generator of hazardous waste ID#NYD980772487. No other relevant information has been identified at the time of this response.

<u>UPDATED INFORMATION:</u> The 1995 Phase I, in Section 6.3, stated that the subject property was identified as a RCRA large-quantity generator (EPA ID# 980772487) on the June 1995

RCRA database. The "June-Junly 2002 correspondence of Harsco and NYSDEC" referenced in Response 4.b includes a letter from the New York State Department of Environmental Conservation requesting that a 2001 Hazardous Waste Report be submitted, as well as a letter from Patent Construction responding with documentation that it did not generate enough hazardous waste in 2001 to file a report. The supporting documentation to that letter (provided in the attachment in Response 4.b) includes Quarterly Returns for Special Assessments on Hazardous Waste Generated in New York State ("Quarterly Returns") for the four quarters of 2001. We note that Harsco's continuing investigation also identified Quarterly Returns for all quarters beginning with fourth quarter 1998 through fourth quarter 2006, except for a missing fourth quarter 2004. Of these, only the Quarterly Return for the third quarter 2001 shows any amounts of hazardous waste – all other Quarterly Returns list all amounts as zero. We have not provided copies of Quarterly Returns except for 2001, but will do so upon request.

33. Did the Company or an affiliate ever have "interim status" under RCRA at the Facility? If so, and the Facility does not currently have interim status, describe the circumstances under which the Facility lost interim status.

According to the Phase I/II, records were not found of "interim status" at subject property. Harsco is unaware of the Facility ever having "interim status". No other relevant information has been identified at the time of this response.

34. Identify all state or City offices to which the Company has sent or filed hazardous substance or hazardous waste information with regard to the Facility or Other Newtown Creek Properties. State the years during which such information was sent/filed.

No relevant information has been identified at the time of this response.

#### **UPDATED INFORMATION:** See Response 32.

35. Has the Company or the Company's contractors, lessees, tenants, or agents ever contacted, provided notice to or made a report to the New York State Department of Environmental Conservation or New York City Department of Environmental Protection or any other state or city agency concerning an incident, accident, spill, release, or other event involving the Facility or involving Newtown Creek? If so, describe each incident, accident, spill, release, or other event and provide copies of all communications between the Company or its agents and New York State Department of Environmental Conservation, New York City Department of Environmental Protection, New York State Department of Health, New York City Department of Health and Mental Hygiene, or any other state or city agency.

No relevant information has been identified at the time of this response.

#### Section 6.0 Facility Releases, Investigations and Remediation

36. Identify all leaks, spills, or releases into the environment of any waste, including hazardous substances, pollutants, contaminants, industrial waste, or petroleum that have occurred at or from the Facility. In addition, identify and provide copies of any documents regarding:

No record of any release of any waste into the environment was found during the Phase I/II assessments and Harsco is not aware of any such release. No other relevant information has been identified at the time of

#### this response.

#### UPDATED INFORMATION: 36. See Response 6.d.

- a. the date of each release;
- b. how the releases occurred, e.g. when the substances were being stored, delivered by a vendor, transported or transferred (to or from any tanks, drums, barrels, or recovery units), and were addressed or treated;
- c. the identity of the materials released and the amount of each material released;
- d. where such releases occurred;
- e. activities undertaken in response to each such release or threatened release, including the notification of any agencies or governmental units about the release and the remediation and the regulatory disposition concerning such release; and
- f. identify all fires, explosions or other similar events that have occurred at the Facility during the Company's ownership or operation that required response either by a Facility employee or a New York City responder or that was the subject of a subsequent investigation by a New York City agency. Identify the location on a Facility map where each of the events occurred and identify the items that were combusted in whole or part, including, without limitation, hazardous substances, pollutants, contaminants, industrial waste, or petroleum. Provide a copy of all reports of the event, whether such reports are the Company's private reports or are public reports in the Company's possession.
- 37. Was there ever a spill, leak, release, or discharge of waste or process residue, including hazardous substances, pollutants, contaminants, industrial waste, or petroleum, into any subsurface disposal system or floor drain inside or under a building on the Facility? If the answer to the preceding question is anything but an unqualified "no", provide details of each event and any communication with any federal, state or city regulatory body.

No record of any such spill, leak, release, or discharge was found during the Phase I/II assessments and Harsco is not aware of any such release. No other relevant information has been identified at the time of this response.

38. Has any contaminated soil ever been excavated or removed from the Facility? Unless the answer to the preceding question is anything besides an unequivocal "no", identify and provide copies of any documents regarding:

Harsco is not aware of any excavation or removal of contaminated soil from the Facility. No relevant information has been identified at the time of this response.

- a. reason for soil excavation;
- b. location of excavation presented on a map or aerial photograph;
- c. manner and place of disposal and/or storage of excavated soil;
- d. dates of soil excavation and amount of soil excavated;
- e. all analyses or tests and results of analyses of the soil that was removed from the Facility;

- f. all confirmatory analyses or tests and results of analyses of the excavated area after the soil was excavated and removed from the area; and
- g. all persons, including contractors, with information about (a) through (f) of this question.
- 39. Have you treated, pumped or taken any kind of response action on groundwater under the Facility? If your answer is "yes", identify and provide copies of any documents regarding:

Harsco is not aware of any pumping, treating or response action on groundwater under the Facility. No other relevant information has been identified at the time of this response.

- a. the reason for groundwater action;
- b. whether the groundwater contains or contained hazardous substances, pollutants, contaminants, industrial waste, or petroleum, what the constituents are or were which the groundwater contained, and why the groundwater contained such constituents;
- c. all analyses or tests and results of analyses of the groundwater;
- d. if the groundwater action has been completed, the basis for ending the groundwater action; and
- e. all persons, including contractors, with information about (a) through (d) of this question.
- 40. Was there ever a spill, leak, release, or discharge of a hazardous substance, waste or material into Newtown Creek from any equipment, structure or activity occurring on, over or adjacent to the Creek? If your answer is "yes", identify and provide copies of any documents regarding:

Harsco is not aware of any spill, leak, release or discharge of any hazardous substance, waste or material into Newtown Creek from any such structure or activity. No other relevant information has been identified at the time of this response.

- a. the nature of the hazardous substance, waste or material spilled, leaked, released, or discharged;
- b. the dates of each such occurrence;
- c. the amount and location of such release;
- d. whether sheens were created on the Creek by the release; and
- e. whether there ever was a need to remove or dredge any solid waste, bulk product or other material from the Creek as a result of the release? If so, please provide information and a description of when such removal/dredging occurred, why, and where the removed/dredged materials were disposed.
- 41. Describe the purpose for, the date of initiation and completion, and the results of any investigations of soil, water (ground or surface), sediment, geology, hydrology, or air quality on or about the Facility. Provide copies of all data, reports and other documents that were generated by the Company or any contractor or consultant, or by a federal or state regulatory agency related to the investigations that are described.

A limited Phase II was conducted in 2006 as a result of the fact that two fuel oil USTs listed in the NYSDEC UST database as abandoned in-place in 1998. See also the response to Request No. 27 and the Phase I/II Report provided in response to Request No. 44.

### <u>UPDATED INFORMATION: 41. A Phase I assessment, dated December 18, 1995, is provided in Response 44.</u>

42. Describe any remediation or response actions that you, your agents or consultants have ever taken or are currently taking at the Facility, either voluntarily or as required by any state, local or federal entity. If not otherwise already provided under this Information Request, provide copies of all enforcement agreements with regulatory agencies pursuant to which such response actions were undertaken as well as all reports of investigations or cleanup activities on the Facility.

No relevant information has been identified at the time of this response.

43. State whether you are planning to perform any investigations of the soil, water (ground or surface), geology, hydrology, and/or air quality at or about the Facility? If so, identify: the purpose, nature and scope of such investigations and the dates when you plan to undertake such investigations.

No

44. Provide a copy of all environmental investigation reports of the Facility including investigations undertaken at the times of acquisition and transfers of the Facility by the Company.

The Phase I/II Report is attached. No other relevant information has been identified at the time of this response.

#### UPDATED INFORMATION: 44. The 1995 Phase I, described in Response 4.b is attached.

#### Section 7.0 Compliance with this Request and Financial Information

- 45. <u>Persons and Sources Consulted in Your Response</u>: Identify all persons, other than counsel, that the Company consulted and all sources that the Company reviewed in responding to this request, including, but not limited to:
  - a. names of persons consulted;
  - b. contact information for each such person;
  - c. if the person is a current or former employee, the job title and responsibilities for each such person and the dates of employment;
  - d. which questions the person was consulted about; and
  - e. a description and the location of where all sources reviewed are currently located and the questions to which such sources relate.

Stephen Stanislawczyk, Harsco Corporation, Manger Environmental Compliance Harsco Minerals, (717-506-4666), 5000 Ritter Road, Suite 205 Mechanicsburg, PA 17055, current Harsco employee, was consulted on all questions. Mr. Stanislawczyk consulted all of the documents that are

provided with this response and consulted with the other persons identified in this response.

Steve Baney, Harsco Corporation, Senior Director - Risk Management (717-730-1910) 350 Poplar Church Road, Camp Hill, PA 17011, current Harsco employee, was consulted on questions regarding environmental responsibility, financial and insurance matters. Resources reviewed were sent to Stephen Stanislawczyk at Harsco and are currently located at his office.

Oscar Jarrett, Harsco Corporation, VP & General Manager Harsco Industrial IKG, (713-378-3930), current Harsco employee, was consulted on questions concerning operational activities involved in the fabricating of gratings and the identity of persons who might have knowledge of operations at the Facility. The resources that he consulted would currently be located at Channelview, TX office.

Steve Thompson, Harsco Corporation, Project Manager – (614-296-8367) 350 Poplar Church Road, Camp Hill, PA 17011, current Harsco employee, was consulted as to whether he had any knowledge of subject property.

Fred Dubhorn, Harsco Corporation, Technical Service Coordinator Sales, Harsco Industrial IKG, (908-757-5310) 709 Loretta Terrace, Plainfield, NJ 07062-2104, current Harsco employee, was consulted on questions concerning the Facility, the operational activities at the Facility and the identity of others having knowledge of the Facility.

Don DeSmedt, Harsco Corporation, Product Specialist/Industrial Accts Sales, Harsco Industrial IKG, (201-339-0219), 122 W 14<sup>th</sup> Street, Bayonne, NJ 07002, current Harsco employee, was consulted on questions concerning the Facility, the operational activities at the Facility and the identity of others having knowledge of the Facility.

#### **UPDATED INFORMATION:**

Denise Franklin, Harsco Corporation, Sales Coordinator, Harsco Infrastructure Americas, (732-396-1269), 1800 Lower Road, Linden, NJ, 07036, current Harsco employee, was consulted on questions concerning the Facility, the operational activities at the Facility and the identity of others having knowledge of the Facility.

Mel Lebrach, Jopson Associates, 454 Germantown Pike Lafayette Hill, PA 19444 (610-825-0320) former Harsco employee (from August 1968 until April 1972) and who worked in production and inventory control at the Facility, was consulted on questions concerning the Facility, the

### operational activities at the Facility and the identity of others having knowledge of the Facility.

46. Identify all individuals who currently have and those who have had responsibility for the Company's environmental matters (e.g. responsibility for the disposal, treatment, storage, recycling, or sale of the Company's wastes). Also provide each such individual's job title, duties, dates performing those duties, supervisors for those duties, current position or the date of the individual's resignation, and the nature of the information possessed by such individuals concerning the Company's waste management.

Jeremy Zahn - 2011 to present - VP EH&S

Steve Baney – 2009 (environmental responsibilities added) to present – SrDir-Risk Mgt.

Mark Kimmel – 2007 (environmental responsibilities added) to present – SRVP, General Counsel, Chief Admin officer

Mark Mummert -2000 to 2010 – Director – Environmental Harsco Corporate

Bill Gregory – 1990 to 1999 – Manager Environmental Harsco Corporate

John Wright – 1993 to 2000 - Director Safety and Environmental Harsco Corporate

Glenn Hundertmark – 1992 to present – Manager Environmental Compliance Harsco Metals

Steve Stanislawczyk – 1997-2001 (Harsco Corporate) and 2010 to present – Manger Environmental Compliance Harsco Minerals

All employees listed would have had limited information concerning the facilities past specific waste management procedures.

47. <u>Financial Information</u>: Provide a copy of the Company's certified annual financial statements for each of the most recent three years.

See attached information, obtained from Harsco's website.

#### 48. Insurance and Indemnification:

a. Provide a schedule of liability insurance policies that provided coverage for the Company with respect to the Facility. Please list all policies from the Company's initial ownership or initial operation of the Facility to the current date, showing the insured, insurer, broker, or agent from whom you procured such insurance (if any), policy number, effective dates of the policy, and liability limits. Provide a copy of the Declaration Page for each such insurance policy. For any insurance policy that the Company no longer has in its possession, provide a copy of relevant records tending to show the existence of such policy;

#### See attached

UPDATED INFORMATION: 48.a. In the binder titled Acquisition by Harsco Corporation of the Business and Assets of Irving Subway Grating Co., Inc., produced in response to Request 1.f.i., Harsco has noted letters from insurers appearing to consent to the transfer of group policies to Harsco. At this time, Harsco has no knowledge of the types or coverage of the policies that were mentioned in the letters or any other information beyond that contained in the letters. Harsco has also discovered some other documents relating to the Land under the Highway which mention insurance policies. At this time, Harsco has no present knowledge of the types or coverage of the policies mentioned in those documents beyond the information contained in those documents which are attached.

b. Provide a schedule of casualty insurance policies since the time of initial ownership or operation of the Facility, with the same information called for in the previous subparagraph that may provide coverage for cleanup of the Facility;

No relevant information has been identified at the time of this response.

c. Has the Company made claims under any policy in connection with environmental liability or environmental casualty in connection with the Facility? If the Company has ever made such a claim, provide a copy of all notices and correspondence in connection with such claim and state the disposition of such claim;

The Company has not made any such claims under any policy in connection with the Facility.

d. Identify each entity that may have a duty to indemnify the Company for any potential liability in connection with the Facility or the Site, identify the circumstances giving rise to the indemnity and provide a copy of any document that reflects a requirement to indemnify the Company; and

None known

e. Identify each entity that the Company has agreed to indemnify for any potential liability in connection with the Facility or the Site, identify the circumstances giving rise to the indemnity and provide a copy of any document that reflects a requirement to indemnify by the Company.

To the best of Harsco's knowledge we did not indemnify anyone for potential liability in connection with the Facility.

#### CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION NEWTOWN CREEK SUPERFUND SITE

State of Penns, lunia County of Cumberland

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (response to EPA Request for Information) and all documents submitted herewith, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that the Company is under a continuing obligation to supplement its response to EPA's Request for Information if any additional information relevant to the matters addressed in EPA's Request for Information or my Company=s response thereto should become known or available to the Company.

Stephon STanislawczyk

Fruironmetal Manager

TITLE (print or type)

COMPANY NAME

SIGNATURE

Sworn to before me this 19 day of 10, 2012

Notary Public

My commission expires:

[STAMP OR SEAL]

NOTARIAL SEAL MINDI E YOUNG **Notary Public** ECHANICSBURG BORO., CUMBERLAND COUNTY My Commission Expires Dec 3, 2012